

# FISH RICHARDSON P.C., P.A.

COPY OF PAPERS  
ORIGINALLY FILED

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

3300 Dain Rauscher Plaza  
60 South Sixth Street  
Minneapolis, Minnesota  
55402

Telephone  
612 335-5070

Facsimile  
612 288-9696

Web Site  
www.fr.com

March 15, 2002

VIA FACSIMILE and U.S. MAIL

Confidential - For Settlement Purposes Only Pursuant to F.R.E. 408

John P. White  
Coopers & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036

Re: U.S. Serial No. 09/885,227; U.S. Provisional Application No. 60/287,171;  
U.S. Provisional Application No. 60/269,788; U.S. Provisional Application  
No. 60/212,577  
Our Ref.: 07039-218001

Dear Mr. White:

We are in receipt of your March 8, 2002 letter to James A. Rogers III of Mayo Foundation. Given that Teva does not own the invention(s) at issue, Mayo asks that Teva immediately relinquish the pending application files to Mayo to continue prosecution of the applications.

Teva does not own the invention that is the subject of U.S. Serial No. 09/885,227 and the provisional applications. Under the January 9, 1997 Agreement, Mayo did not transfer or agree to transfer ownership of its inventions to Teva. Rather, Teva received a right to use the results of the project. (Agreement, ¶ 8.) The provision dealing with intellectual property protection only permitted Teva the opportunity to seek intellectual property protection for its own invention(s) if any were contained in the Confidential Information conveyed to Mayo and disclosed in a Mayo publication. (Agreement, ¶ 5.)

The Agreement contains no language assigning any invention by Mayo employees to Teva. Under New York law, an assignment must evidence a present surrender of the owner's right, title and interest in the property. The Agreement provides no language demonstrating a surrender of Mayo's, or the inventors', right, title, and interest in any invention(s) by Mayo employees.

As such, it is not appropriate for Teva to be prosecuting the pending applications. Teva never received the permission of Mayo or the inventors to prosecute the applications. Despite this fact, Teva filed the applications at issue. Signing the

RECEIVED

APR 24 2002

OFFICE OF PETITIONS



BOSTON  
DALLAS  
DELAWARE  
NEW YORK  
SAN DIEGO  
SILICON VALLEY  
TWIN CITIES  
WASHINGTON, DC

John P. White  
March 15, 2002  
Page 2

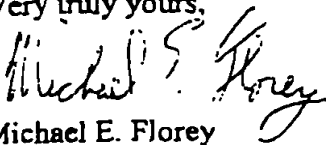
applications represented to the Patent and Trademark Office that the signing attorney was authorized to represent the particular party on whose behalf he or she was acting. 37 C.F.R. 1.34(a). Teva's attorneys were never authorized to file the applications by Mayo or the inventors. Any further correspondence with the Patent and Trademark Office by Teva or its counsel relating to the pending applications should disclose the fact that Teva and its counsel are acting without the authority of Mayo or the inventors. Teva and its counsel should further disclose that Teva does not own the invention(s).

Given that Teva is not the owner of the invention(s), Mayo will not agree to have Dr. Rodriguez and Dr. Ure sign your proposed Declaration. This refusal to provide you with the signed Declaration violates no provision of the Agreement, since under the Agreement Teva does not own any invention by Dr. Rodriguez and Dr. Ure.

To address this situation, Mayo asks that Teva immediately relinquish to Mayo the pending applications. In an effort to resolve the dispute and thus pursuant to Rule 408, Mayo will agree to continue prosecution of the pending applications for a period of six months. During this time period, Mayo and Teva can determine the scope of Teva's rights to use the results of the Project as such use may apply to the pending patent applications.

We look forward to your prompt response given the upcoming deadline to provide a signed declaration to the PTO.

Very truly yours,

  
Michael E. Florey

cc: James A. Rogers III, Esq.  
Dr. Susan Stoddard

# FISH & RICHARDSON P.C.,

3300 Dain Rauscher Plaza  
60 South Sixth Street  
Minneapolis, Minnesota  
55402

Telephone  
612 335-5070

Facsimile  
612 288-9696

Web Site  
[www.fr.com](http://www.fr.com)

Date March 15, 2002

To John P. White, Esq.  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 278-0400

Facsimile number 07039-21800001 / (212) 391-0525

From Michael E. Florey

Re Acorda Therapeutics  
Our Ref.: 07039-218001

Number of pages  
including this page 3

Message Please see attached letter dated March 15, 2002.

NOTE: This facsimile is intended for the addressee only and may contain privileged or confidential information. If you have received this facsimile in error, please immediately call us collect at 612 335-5070 to arrange for its return. Thank you.

COOPER & DUNHAM LLP

ATTORNEYS AT LAW

1185 AVENUE OF THE AMERICAS, NEW YORK, NEW YORK 10036

TELEPHONE: (212) 278-0400

CHRISTOPHER C. DUNHAM  
NORMAN H. ZIVIN  
JOHN P. WHITE  
WILLIAM E. PELTON  
ROBERT D. KATZ  
PETER J. PHILLIPS  
WENDY E. MILLER  
ROBERT T. MALDONADO  
ERIC D. KIRSCH  
PEDRO C. FERNANDEZ  
JANE M. LOVE  
MICHAEL F. MORANO  
RAYMOND A. DIPERNA  
FRANK A. BRUNO  
CHRISTOPHER M. RIES  
SPYROS S. LOUKAKOS\*  
MARIA V. MARUCCI\*

IVAN S. KAVRUKOV  
PETER D. MURRAY  
JAY H. MAIOLI  
ROBERT B. G. HOROWITZ  
DONALD S. DOWDEN  
DONNA A. TOBIN  
RICHARD S. MILNER  
RICHARD F. JAWORSKI  
PAUL TENG  
GARY J. GERSHIK  
TODD W. EVANS  
SPENCER H. SCHNEIDER  
ALAN D. MILLER  
CHRISTINE S. NICKLES\*\*  
JASON S. MARIN  
KEITH J. BARKAUS\*



COPY OF PAPERS  
ORIGINALLY FILED

March 8, 2002

FACSIMILE: (212) 391-0525  
(212) 391-0526  
(212) 391-0630

OF COUNSEL  
JOHN R. GARBER  
ALAN J. MORRISON

SCIENTIFIC ADVISOR  
BRIAN J. AMOS, PH.D.

PATENT AGENTS  
JENNIFER H. BURDMAN  
GREGORY J. CARBO

FOUNDED 1887  
www.cooperdunham.com

\* NEW YORK STATE BAR ADMISSION PENDING  
\*\* ADMITTED IN MASSACHUSETTS ONLY

**BY FEDERAL EXPRESS**

James A. Rogers III, Esq.  
Legal Counsel  
Mayo Foundation for  
Medical Education and Research  
200 First Street SW  
Rochester, Minnesota 55905

Re: Moses Rodriguez and Daren Ure, Treatment of Central Nervous System Diseases by Antibodies Against Glatiramer Acetate, U.S. Serial No. 09/885,227, filed June 20, 2001, claiming benefit of U.S. Provisional Application No. 60/287,171, filed April 27, 2001, U.S. Provisional Application No. 60/269,788, filed February 16, 2001, and U.S. Provisional Application No. 60/212,577, filed June 20, 2000 - Our Docket 60726-A

Dear Mr. Rogers:

Since our meeting on August 13, 2001 we have not received Mayo's cooperation in securing intellectual property protection for the results of the work funded by Teva. Mayo's lack of cooperation jeopardizes Teva's rights.

The U.S. Patent and Trademark Office is, and has been, requesting that Teva file an inventors' Declaration signed by Drs. Moses Rodriguez and Daren Ure. The final and inextensible deadline for filing the Declaration is April 6, 2002.

RECEIVED

APR 24 2002

OFFICE OF PETITIONS

James A. Rogers III, Esq.  
March 8, 2002  
Page 2

As you know, the patent application filed on June 20, 2001 relates to the results of work funded by Teva pursuant to a January 9, 1997 Agreement between Tava and Mayo. Mayo's refusal to abide by the terms of the January 9, 1997 Agreement jeopardizes the intellectual property protection to which Teva is entitled and is in violation of the January 9, 1997 Agreement. Failure to file the Declaration signed by Drs. Rodriguez and Ure by the final deadline imposed by the U.S. Patent Office could cause significant damage to Teva.

Accordingly, we enclose another copy of the U.S. application as filed and an original and a copy of a Declaration and Power of Attorney to be signed by Drs. Moses Rodriguez and Daren Ure. Copies were previously provided to Dr. Susan Stoddard of Mayo on July 2, 2000 by Dror Bashan of Teva as discussed in prior correspondence and in connection with our August 13, 2001 meeting.

Please have Drs. Rodriguez and Ure review the enclosed U.S. application. After reviewing the application, please have Drs. Rodriguez and Ure sign and date the original Declaration and Power of Attorney, in black ink, where indicated and return the signed, original Declaration and Power of Attorney to us no later than **April 1, 2002**. The copy is for your files. For your convenience in returning the signed Declaration, we also enclose a pre-paid self addressed Federal Express envelope with the respective copy of this letter.

Please understand that we will understand Mayo's failure to return the signed Declaration to us as a refusal to sign and Teva will consider which remedies are available to it.

James A. Rogers III, Esq.  
March 8, 2002  
Page 3

Please note that Mrs. Tessa Malamud-Cohen has left Teva. Her duties have been assumed by Mrs. Sharon Hausdorff, whose contact particulars are:

Teva Pharmaceutical Industries, Ltd.  
Patent Department  
5 Basel Street  
P.O. Box 3190  
Petach-Tikva 49131, Israel  
Tel. 972-3-9267305  
Fax. 972-3-9267484

I look forward to receiving the signed Declaration.

Sincerely,

John P. White

JPW/GJG  
Enclosures

cc: ~~Sharon~~ Sharon F. Hausdorff, Ph.D. (w/ enclosures)  
Dr. Moses Rodriguez (w/ enclosures - by Federal Express)  
Dr. Daren Ure (w/ enclosures - by Federal Express)